

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PRITI MAJALI,

Plaintiff,

v.

WALGREEN CO.,

Defendant

No. C-07-0295 MMC

ORDER TO SHOW CAUSE

Before the Court is defendant Walgreen Co.'s notice of removal, filed January 17, 2007, wherein defendant contends the Court has diversity jurisdiction over the above-titled action. In the complaint, plaintiff Priti Majali does not seek any particular amount of damages.

A federal district court has jurisdiction over removed actions only if such court would have had original jurisdiction over the action had it originally been filed therein. See 28 U.S.C. § 1441(a). The instant action contains no federal claims. Under such circumstances, the federal district court has subject-matter jurisdiction only if the action is between citizens of different states and the amount in controversy exceeds \$75,000. See 28 U.S.C. § 1332(a).

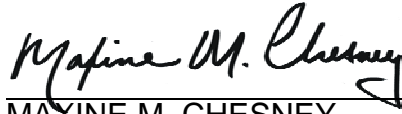
Defendant's notice of removal asserts that the amount in controversy exceeds \$75,000, but fails to submit evidence to support that assertion. Although defendant

1 contends that damage awards and attorneys' fees in similar actions routinely exceed the
2 \$75,000 jurisdictional threshold, it fails to compare the facts alleged in the instant action to
3 any case in which such damages or fees were awarded, and fails to submit any evidence
4 suggesting that such awards are routine. As a consequence, defendant has failed to
5 establish diversity jurisdiction. See Gaus v. Miles, 980 F.2d 564, 567 (9th Cir. 1992)
6 (holding defendant in removed action "bears the burden of actually proving the facts to
7 support jurisdiction, including the jurisdictional amount.")

8 Accordingly, defendant is hereby ORDERED TO SHOW CAUSE in writing, filed and
9 served no later than February 9, 2007, why the instant action should not be remanded for
10 lack of subject matter jurisdiction. Plaintiff may file a reply to defendant's response to the
11 order to show cause no later than February 23, 2007. The matter will stand submitted on
12 that date, and will be decided without a hearing, unless the Court determines, after
13 reviewing the parties' submissions, that a hearing is necessary. See Civ. L.R. 7-1(b).

14 **IT IS SO ORDERED.**

15 Dated: January 22, 2007

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17 MAXINE M. CHESNEY
18 United States District Judge
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